

**THIS DECISION HAS BEEN APPEALED. THE  
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO. 453-05-3136.M2**

November 15, 2004

**Re: MDR #: M2-05-0089-01 Injured Employee:**  
**TWCC#: DOI:**  
**IRO Cert. #: SS#:**

**TRANSMITTED VIA FAX TO:**

**Texas Workers' Compensation Commission**  
Medical Dispute Resolution  
Fax: (512) 804-4868

**REQUESTOR:**

**RESPONDENT:**

Dear

In accordance with the requirement for TWCC to randomly assign cases to IROs, TWCC assigned your case to \_\_\_\_ for an independent review. \_\_\_\_ has performed an independent review of the medical records to determine medical necessity. In performing this review, \_\_\_\_ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of \_\_\_\_ and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this care for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. Your case was reviewed by a physician who is Board Certified in Spine Surgery and is currently listed on the TWCC Approved Doctor List.

**REVIEWER'S REPORT**

**Information Provided for Review:**

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor:

- Office notes 02/14/03 – 09/10/04
- Electrodiagnostic study 06/30/03
- Operative reports 10/31/03 – 05/11/04

- Radiology reports 02/14/03 – 06/30/04
- Information provided by Respondent:
- Correspondence
  - Peer review 08/06/03

**Clinical History:**

The patient is a 43-year-old woman who was injured originally in \_\_\_\_\_. She underwent a fusion at L5/S1 in 1997 for spondylolisthesis. The patient apparently had residual low back pain and right leg pain thereafter. She presented with persistent and increasing low back pain and bilateral leg pain.

**Disputed Services:**

Lumbar discogram w/CT scan.

**Decision:**

The reviewer agrees with the determination of the insurance carrier and is of the opinion that lumbar discogram with CT scan is not medically necessary in this case.

**Rationale:**

On history and physical examination dated 9/10/04, the patient reports having low back and bilateral leg pain. Examination reveals motor 5/5. Strength and reflexes are normal. The report of plain films dated February of 2003 shows an L5/S1 fusion with cages that appear solid. There is L2/L3 degenerative disc disease and L3/L4 anterior annular vacuum disc phenomenon indicating degenerative disease. The report of a CT dated May of 2003 reveals L1/L2 spondylosis, L2/L3 degenerative disc disease, and the L5/S1 being solid. The report of plain x-rays dated May of 2004 reveal findings of retrolisthesis at L2/L3, L3/L4, and L4/L5. The report of a myelogram and CT scan dated June 2004, reveals L2/L3 degeneration, L3/4 bulge and retrolisthesis, and L4/L5 facet arthrosis with no significant nerve root compression noted at any level. Finally, the report of an EMG from June of 2003 is negative.

Based on these findings, the prior surgery at L5/S1 does appear to be solid. There does appear to be some degree of degenerative change present at L2/L3, L3/L4, and L4/L5. Spinal literature supports considering fusion for instability, which in this case had already been done. Spinal literature also supports considering fusion for 1 and perhaps 2 levels of degenerative disease. In this case, there is some level of degeneration present at all of the remaining levels in this patient's lumbar spine. Lumbar discography would offer no significant benefit in deciding treatment; therefore, it is not medically necessary.

**Additional Comments:**

It should be noted that the reviewer requested for review the film of the lumbar myelogram & CT done on 06/30/04. Attempts were made to obtain this film from \_\_\_\_\_. Staff there reported that the patient had signed out all the film. A call

was made to the patient with no answer. A message explaining the reviewer's request was left with the designated contact person in the requestor's office. IRI was unable to obtain this film.

We are simultaneously forwarding copies of this report to the payor and the Texas Workers' Compensation Commission. This decision by Independent Review, Inc. is deemed to be a Commission decision and order.

#### YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of this decision and has a right to request a hearing.

**If disputing a spinal surgery prospective decision** a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings **within ten (10) days** of your receipt of this decision (28 Tex. Admin. Code 142.5©).

**If disputing other prospective medical necessity** (preauthorization) decisions a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings **within twenty (20) days** of your receipt of this decision (28 Tex. Admin. Code 148.3).

This Decision is deemed received by you **five (5) days** after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5 (d)). A request for a hearing should be sent to:

Chief Clerk of Proceedings  
Texas Workers' Compensation Commission, MS-48  
7551 Metro Center Dr., Ste. 100  
Austin, TX 78744-1609

A copy of this decision should be attached to the request. The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute.

I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on November 15, 2004.